

PREPARED BY:

dcj

WHEN RECORDED RETURN TO:

JPMORGAN CHASE BANK, N.A.
Dealer Commercial Services
201 N. Central Avenue, 26th Floor
Dept. AZ1-1125
Phoenix, AZ 85004

124142

13045719

8/6/2019 11:41:00 AM \$40.00

Book - 10812 Pg - 8486-8494

RASHELLE HOBBS

Recorder, Salt Lake County, UT

MOUNTAIN VIEW TITLE & ESCROW

BY: eCASH, DEPUTY - EF 9 P.

ASSUMPTION AND MODIFICATION AGREEMENT

OF NOTE AND DEED OF TRUST

27-13-427-055

THIS ASSUMPTION AND MODIFICATION AGREEMENT OF NOTE AND DEED OF TRUST (this "Agreement") is made and entered into as of July 12, 2019, between JPMORGAN CHASE BANK, N.A., whose address is 201 N. Central Avenue, 26th Floor, Phoenix, AZ 85004, and its successors in trust and assigns (the "Beneficiary"), JPMORGAN CHASE BANK, N.A., 201 South Main Street, Suite 300, Salt Lake City, UT 84111, and its successors in trust and assigns (the "Trustee"), DENNIS J. DAHLE, whose address is 13 Wilson Court, Park City, UT 84060, (the "Original Trustor") and DENNIS DAHLE INVESTMENTS, L.L.C., a Utah limited liability company whose address is 4595 S. State Street, Murray, UT 84107 (the "Assuming Trustor").

RECITALS

(A) The Beneficiary is the holder and owner of the following documents (as amended, extended, renewed, and/or replaced to the date of this Agreement, collectively, the "Loan Documents"):

1. A Term Note dated May 15, 2014, in the original principal amount of Three Million Seven Hundred Thousand and 00/100 Dollars (\$3,700,000.00) executed and delivered by the Original Trustor to the Bank (the "Original Note");

2. A Deed of Trust, Assignment of Leases and Rents, Security Agreement and Financing Statement, dated May 15, 2014 and recorded in the Official Records for the County of Salt Lake, Utah (the "Recorder's Office") on May 19, 2014, Book 10231, Page 7353-7367 (the "DOT"), which DOT encumbers real property commonly known as 10785 S. Auto Mall Drive, Sandy, Utah 84070, and more fully described in the attached Exhibit A (the "Premises"). The DOT secures, *inter alia*, indebtedness originally evidenced by the Original Note; and

3. All other instruments, documents or agreements executed in connection with the Original Note and the DOT by the Original Trustor in favor of the Beneficiary, including, without limitation, the Credit Agreement dated May 15, 2014 by and between Original Trustor and Beneficiary, any and all renewals, amendments and modifications of any of the foregoing;

(B) The Original Trustor has requested that the Beneficiary consent to the transfer of title to the Premises to the Assuming Trustor (the "Transfer").

(C) The Assuming Trustor desires to receive the Beneficiary's consent to the Transfer, to formally assume the DOT, the Original Note and the other Loan Documents and to perform all of the covenants and conditions contained in the DOT, Original Note and other Loan Documents and take such other actions as set forth herein or as may be required to effectuate the terms herein.

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(D) The Beneficiary is unwilling to give its consent to the Transfer unless (i) the Assuming Trustor assumes all of the obligations imposed upon the Original Trustor by the DOT, Original Note and other Loan Documents by executing and delivering this Agreement, and (ii) the Assuming Trustor (and, as applicable, the Original Trustor) execute and deliver to the Beneficiary the Note (as defined below) and such other agreements, instruments and documents requested by the Beneficiary (collectively, the "Other Documents").

AGREEMENT

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. Assumption.

The Assuming Trustor hereby assumes all of the obligations of the Original Trustor under the DOT, the Original Note and each of the other Loan Documents and agrees to perform all covenants, conditions, duties, and obligations of the Original Trustor contained therein. Contemporaneously herewith, the Original Note shall be replaced by the Term Note dated July 12, 2019 in the original principal amount of Two Million Seven Hundred Ninety Thousand Four Hundred Sixteen and 47/100 Dollars (\$2,790,416.47) (the "Note") executed by the Assuming Trustor. Assuming Trustor hereby further agrees to be bound by all the terms, conditions and agreements of the Original Note, Note, DOT and other Loan Documents and to do and perform each and every act required to be done or performed by Original Trustor under the terms of each of the Loan Documents in the same manner, at the same time and with the same effect as though Assuming Trustor had originally joined in the execution thereof. All references in the DOT, Original Note, Note and other Loan Documents to the "Grantor," "Borrower," "Trustor," "Assignor," or "Debtor," as the case may be, shall at all times hereafter be deemed to be references to the Assuming Trustor. The Assuming Trustor hereby assumes, ratifies and confirms all representations and warranties contained in the DOT, the Original Note, Note and the other Loan Documents.

2. Amendment of DOT. The DOT is hereby amended as follows:

That certain paragraph of the DOT which defines the term "Liabilities" in the DOT, including, without limitation, all subparagraphs thereof, is amended and restated in its entirety to read in full as follows:

The term "Liabilities" means all indebtedness, liabilities and obligations of every kind and character of each and any of DENNIS DAHLE INVESTMENTS, L.L.C. to the Beneficiary, whether the indebtedness, liabilities and obligations are individual, joint or several, contingent or otherwise, now or hereafter existing, including, without limitation, all liabilities, interest, costs and fees, arising under or from any note, open account, overdraft, credit card, lease, Rate Management Transaction, letter of credit application, endorsement, surety agreement, guaranty, acceptance, foreign exchange contract or depository service contract, whether payable to the Beneficiary or to a third party and subsequently acquired by the Beneficiary, any monetary obligations (including interest) incurred or accrued during the pendency of any bankruptcy, insolvency, receivership or other similar proceedings, regardless of whether allowed or allowable in such proceeding, and all renewals, extensions, modifications, consolidations, rearrangements, restatements, replacements or substitutions of any of the foregoing. The Trustor and the Beneficiary specifically contemplate that Liabilities include indebtedness hereafter incurred by each and any DENNIS DAHLE INVESTMENTS, L.L.C. to the Beneficiary. The term "Liabilities" includes, without limitation, the following:

- (1) That certain Term Note dated July 12, 2019 in the original principal amount of Two Million Seven Hundred Ninety Thousand Four Hundred Sixteen and 47/100 Dollars (\$2,790,416.47) executed and delivered by DENNIS DAHLE INVESTMENTS, L.L.C. in favor of Beneficiary (the "Replacement Note"), which Replacement Note evidences an amendment, restatement and modification of indebtedness evidenced by that certain Term Note dated May 15, 2014 in the original

principal amount of Three Million Seven Hundred Thousand and 00/100 Dollars (\$3,700,000.00), executed and delivered by DENNIS J. DAHLE to the Beneficiary; and

(2) The performance of all of the promises and agreements contained in this Deed of Trust.

Except as amended herein, all terms of the DOT are confirmed and ratified by the Assuming Trustor, the Original Trustor and the Beneficiary, as if they were fully set forth in this Agreement.

3. Consent to Transfer and Conveyance. The Beneficiary consents to the Transfer, but the Beneficiary expressly reserves the right to withhold its consent to any future sale or transfer of the Premises by the Assuming Trustor, as set forth in the DOT.

4. Warranties and Representations. The Assuming Trustor and Original Trustor warrant and represent as follows:

(a) Neither the Original Trustor nor the Assuming Trustor have done any acts, nor have either omitted to do any act, that might prevent the Beneficiary from, or limit the Beneficiary in, acting upon or under any of the provisions of this Agreement or in the DOT, the Note or any other Loan Document.

(b) Neither Original Trustor nor the Assuming Trustor is prohibited either under any other agreement with any other person or under any judgment or decree, from the execution and delivery of this Agreement, and the performance of each and every covenant under this Agreement, the DOT, the Note or any other Loan Document.

(c) No action has been brought or threatened that would in any way interfere with the right of the Assuming Trustor or Original Trustor to execute this Agreement and perform the obligations of the Assuming Trustor and the Original Trustor contained in the DOT, the Note or any other Loan Document as modified by this Agreement.

(d) The Assuming Trustor is duly formed, validly existing, and in good standing under the laws of the State of Utah and has full power and authority to consummate the transactions contemplated by this Agreement.

5. Condition to Effectiveness. This Agreement shall become effective subject to the execution and delivery hereof by the parties hereto, and the Beneficiary's receipt of the following documents, each in form and substance satisfactory to the Beneficiary:

(a) A copy (containing recording information) of the deed conveying title to the Premises from the Original Trustor to the Assuming Trustor which was recorded in the Recorder's Office, and evidence that all appropriate actions shall have been taken with respect thereto;

(b) Endorsements and modifications to the Beneficiary's loan policy of title insurance insuring the DOT, amending the effective date thereof through the date of this Agreement, and insuring the DOT up to the principal amount of the Replacement Note (as defined herein), as amended by this Agreement, as a first lien on the Premises, which endorsement shall not reveal the existence of any fact or state of title that might, in the Beneficiary's sole discretion, adversely affect the rights, remedies or lien priority of the Beneficiary pursuant to the DOT;

(c) Execution and delivery of the Other Documents;

(d) Evidence, in form and substance satisfactory to the Beneficiary (including, without limitation, certificates of insurance) that all policies of insurance required by the DOT have been amended to reflect the interest of the Assuming Trustor therein and the removal of the Original Trustor, and that all other insurance requirements set forth in the DOT are continuing to be fully met; and

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(e) A copy of the organizational documents for the Assuming Trustor, evidence of the proper formation and good standing of the Assuming Trustor in its state of organization, proper resolutions, certificates and such other documents as the Beneficiary may require relating to the existence and good standing of the Assuming Trustor and the authority of any person executing documents on behalf of such entity.

6. **Costs.** The Assuming Trustor and the Original Trustor shall pay all costs of the assumption made under this Agreement, including, without limitation, recording costs, as well as the cost of obtaining a title insurance policy to insure the lien of the DOT after the recording of this Agreement or, if applicable, an endorsement to the Beneficiary's title insurance policy insuring the lien of the DOT after the recording of this Agreement. Such costs shall be due at closing of the transactions contemplated by this Agreement, and the payment of those costs shall be a condition precedent to the Beneficiary's consent to the transfer of title of the Premises to the Assuming Trustor. If it is determined that additional costs relating to this transaction are due, the Assuming Trustor agrees to pay such costs immediately upon demand.

7. **Paragraph Headings.** The paragraph headings used in this Agreement are for convenience of reference only and shall not be used in the interpretation or construction hereof.

8. **Governing Law.** This Agreement shall be governed, interpreted and construed by, through and under the laws of the State of Utah.

9. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts, taken together, shall constitute one and the same agreement.

10. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto as well as their successors and assigns, heirs and personal representatives.

11. **WAIVER OF SPECIAL DAMAGES.** THE ASSUMING TRUSTOR AND THE ORIGINAL TRUSTOR WAIVES, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT THEY MAY HAVE TO CLAIM OR RECOVER FROM THE BENEFICIARY IN ANY LEGAL ACTION OR PROCEEDING ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

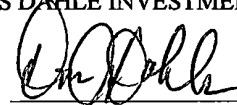
12. **JURY WAIVER.** TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW, THE TRUSTOR AND THE BENEFICIARY (BY THEIR ACCEPTANCE HEREOF) HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) BETWEEN THE TRUSTOR AND THE BENEFICIARY ARISING OUT OF OR IN ANY WAY RELATED TO THIS DOCUMENT. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE BENEFICIARY TO PROVIDE THE FINANCING DESCRIBED HEREIN.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as follows:

Assuming Trustor:

DENNIS DAHLE INVESTMENTS, L.L.C.

By:



Dennis Dahle

Its:

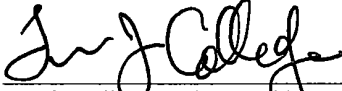
Member

Original Trustor:

By: 
DENNIS J. DAHLE

Beneficiary:

JPMORGAN CHASE BANK, N.A.

By: 
Travis Colledge, Vice President

ACKNOWLEDGMENT

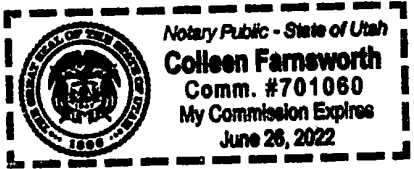
STATE OF Utah)
COUNTY OF Salt Lake) SS.

The foregoing instrument was acknowledged before me on July 31, 2019, by Dennis J Danie.

Given under my hand and notarial seal this 31 day of July, 2019.

Colleen Farnsworth, Notary Public

My Commission expires: 6-26-22

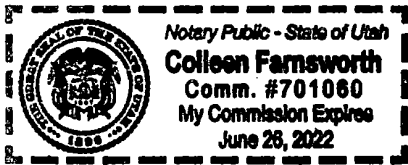


ACKNOWLEDGMENT

STATE OF Utah)
COUNTY OF Salt Lake) SS.

The foregoing instrument was acknowledged before me on July 31, 2019, by Dennis J Dahle.

Given under my hand and notarial seal this 31 day of July, 2019.



Colleen Farnsworth, Notary Public
My Commission expires: 6.26.22

ACKNOWLEDGMENT

STATE OF Utah)
COUNTY OF Salt Lake) SS.

The foregoing instrument was acknowledged before me on July 31, 2019, by TRAVIS COLLEGE.

Given under my hand and notarial seal this 31 day of July, 2019.

Colleen Farnsworth, Notary Public

My Commission expires: 6-26-22

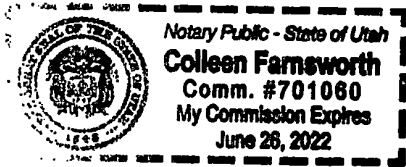


EXHIBIT "A"

PARCEL 3, CARLSON SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, AS RECORDED
IN THE OFFICE OF THE COUNTY RECORDER OF SALT LAKE COUNTY.